

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

WILLIAM E. BENNETT, an individual  
d/b/a WEB Themes

Plaintiff,

Case No. 06-13221

vs.

HONORABLE DAVID M. LAWSON  
HONORABLE STEVEN D. PEPE

AOL LLC, a Delaware corporation;  
TIME WARNER Inc., a Delaware  
corporation; TUCOWS, Inc.,  
a Delaware corporation; JOHN DOE

Defendants.

---

**ORDER DENYING PLAINTIFF'S MOTION FOR LIMITED DISCOVERY (DKT. #43) AND GRANTING  
AOL LLC'S MOTION FOR LIMITED STAY (DKT. #48)**

On November 20, 2006, it was recommended that this case be transferred in its entirety to the United States District Court for the Eastern District of Virginia and that all outstanding motions be heard by that court (Dkt. #38). On December 1, 2006, Plaintiff filed objections to this Report and Recommendation (Dkt. #39).

On December 11, 2006, Plaintiff filed a Motion for Limited Discovery (Dkt. #43), which was opposed by Defendants (Dkt. #50). On January 4, 2007, Plaintiff filed a Motion for Partial Summary Judgment ((Dkt.# 51). Anticipating this motion, which Plaintiff in his Motion for Limited Discovery stated he intended to file, Defendants filed a Motion for Limited Stay of all proceedings pending Judge Lawson's ruling on Plaintiff's objections to the November 20, 2006, Report and Recommendation (Dkt. #48). These matters can be resolved without further briefing or oral argument.

To allow Plaintiff to proceed in this District with limited discovery and with further briefing on his motion for partial summary judgment would undermine the November 20, 2006, recommendation that this case and all its motions be transferred to the United States District Court for the Eastern District of Virginia for further proceedings. While Plaintiff is within his right to challenge that recommendation, it is inappropriate to proceed in a manner inconsistent with it until such time as Judge Lawson has had an opportunity to rule on Plaintiff's objections.

If Judge Lawson disagrees with the recommendation, Plaintiff may proceed with his discovery requests and his seeking of partial summary judgment, but until that time the most efficient way of proceeding is to stay discovery and all further non-emergency proceedings in this matter in this forum until Judge Lawson has ruled on Plaintiff's objections to the November 20, 2006, Report and Recommendation.

For the reasons stated above, Plaintiff's Motion for Limited Discovery (Dkt. #43) is DENIED and Defendant's Motion for Limited Stay (Dkt. #48) is GRANTED.

If Judge Lawson does retain jurisdiction in this forum, Defendants response brief to Plaintiff's motion for partial summary judgment will be due 21 calendar days after Judge Lawson's ruling, and the 3 day extension under Fed. R. Civ. P. 6(e) (ordinarily available for electronic filings) will not be available because Defendants have had Plaintiff's motion since early January 2007. If Judge Lawson accepts the recommendation and the case is transferred to the Eastern District of Virginia, Plaintiff's motion for partial summary judgment will be included in that transfer. Accordingly, Defendants will have 21 calendar days after Judge Lawson's ruling to file their response brief to Plaintiff's motion for partial summary judgment or otherwise act in regard to the briefing on that motion in the Eastern District of Virginia.

The parties may file any objections to this order within ten days after service, pursuant to Local Rule 72.1(d) and Fed. R. Civ. P. 72(a).

**IT IS SO ORDERED.**

**DATED: January, 5, 2007**

**s/ Steven D. Pepe  
Steven D. Pepe  
United States Magistrate Judge**

**CERTIFICATE OF SERVICE**

I hereby certify that on **January 5, 2007**, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following: **Troy S. Brown, Harold Z. Gurewitz, Rebecca J. Hillyer, William F. Kolakowski, III, Krista L. Lenart**, and I hereby certify that I have hand delivered/ mailed by United States Postal Service the paper to the following non-ECF participants: **William E. Bennett, 465 Selkirk Dr., Mt. Morris, MI 48458-8918**

**s/ James P. Peltier  
James P. Peltier  
Courtroom Deputy Clerk  
U.S. District Court  
600 Church St.  
Flint, MI 48502  
810-341-7850  
pete\_\_peltier@mied.uscourts.gov**